

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TRANSPORTATION**

**Call to Order:** By **CHAIRMAN ROGER SOMERVILLE**, on January 29, 2001  
at 3:00 P.M., in Room 472 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Roger Somerville, Chairman (R)  
Rep. Sylvia Bookout-Reinicke, Vice Chairman (R)  
Rep. Carol C. Juneau, Vice Chairman (D)  
Rep. Darrel Adams (R)  
Rep. Joe Balyeat (R)  
Rep. Debby Barrett (R)  
Rep. Ronald Devlin (R)  
Rep. Dave Gallik (D)  
Rep. Steven Gallus (D)  
Rep. George Golie (D)  
Rep. Donald L. Hedges (R)  
Rep. Jim Keane (D)  
Rep. Gary Matthews (D)  
Rep. William Price (R)  
Rep. Allen Rome (R)  
Rep. Frank Smith (D)  
Rep. Donald Steinbeisser (R)  
Rep. Karl Waitschies (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Donna Huffman, Committee Secretary  
Leanne Kurtz, Legislative Branch

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 33, HB 373, HB 375; 1/29/01  
Executive Action: none.

Hearing on HB 373

Sponsor: Rep. Trudi Schmidt, HD 42, Great Falls.

Proponents: Brenda Nordlund, Department of Justice; Dean Roberts, Administrator of Motor Vehicle Division; Steve Turkiewicz, Montana Auto Dealers Association; Ron Ashabraner, State Farm Insurance Co.

Opponents: Mark Bretz, Bretz RV; John Bennett, Bennett Law Office; Stuart Doggett, Montana Manufactured Housing and RV Association.

Informational Witnesses: None.

Opening Statement by Sponsor:

*{Tape : 1; Side : A; Approx. Time Counter : 5.9}*

Rep. Schmidt said people who live out of state are registering their motor homes in Montana to avoid far higher fees in the state they reside in. She said there is a loophole in the current law and this bill attempts to fix that. She handed out newspaper clippings from the Great Falls Tribune and The Missoulian.

**EXHIBIT(trh23a01)**, **EXHIBIT(trh23a02)**.

Proponents' Testimony:

*{Tape : 1; Side : A; Approx. Time Counter : 10.1}*

Brenda Nordlund handed out a facts sheet from Department of Justice explaining this bill **EXHIBIT(trh23a03)**, an amendment to HB 373 **EXHIBIT(trh23a04)**, and motor vehicle liability policies **EXHIBIT(trh23a05)**.

Dean Roberts said he had an obligation to bring attention to the issue of the practice of registering vehicles in Montana under a LLC, when the members of that LLC are residents of another state. He said he supports HB 373. **EXHIBIT(trh23a06)**.

Steve Turkiewicz said he is in support of Section 1 of HB 373.

*{Tape : 1; Side : A; Approx. Time Counter : 25}*

Ron Ashabraner said they support the LLC portion of HB 373.

Opponents' Testimony:

**Mark Bretz** said, as a retailer in Montana, we all benefit the fact that we don't have a sales tax. He said his business has a direct benefit from this. He encouraged opposing HB 373.

**{Tape : 1; Side : B; Approx. Time Counter : 0.3}**

**John Bennett**, an attorney who helps individuals set up LLC's to purchase recreational vehicles, said some of his clients are retired and have chosen a full-time recreational vehicle lifestyle. Some of these clients are able to afford this type of lifestyle by coming to Montana and avoiding another state's sales tax. Some people buy tow vehicles in Montana and make Montana their base state.

**Stuart Doggett** said they stand in opposition of HB 373, specifically Section 2 of the bill. By passing HB 373, it eliminates a tremendous economic benefit that business people in Montana are legally providing at this time. He said it is not only the sale of the RV which these people are providing which generates economic benefits to our state, but they are generating money for that RV Dealership.

**{Tape : 1; Side : B; Approx. Time Counter : 6}**

**Questions from Committee Members and Responses:**

**Rep. Smith** said **Mr. Bretz** had mentioned he would lose \$40,000 at this level, could he give a breakdown of that figure. **Mr. Bretz** said, in taxes paid for the employees and himself, it totaled \$157,455. He said he estimates a 25% reduction to that in layoffs that would occur, and a lower profit margin on the business.

**{Tape : 1; Side : B; Approx. Time Counter : 11}**

**Rep. Gallik** asked **Rep. Schmidt** if she would want to exclude Subsection 2 pertaining to motor homes. **Rep. Schmidt** said yes, there could be a committee bill that could be separated out.

**Rep. Price** asked **Mr. Roberts** to define residency in a state, and if people are gone ten months of the year, do they pay taxes in that state and if that was their principal place to garage their motor home. **Mr. Roberts** said you have to be a resident of a state, but can only be a resident of one state. He said that is correct for being their principal place to garage their motor home.

**{Tape : 1; Side : B; Approx. Time Counter : 23.8}**

**Chairman Somerville** asked **Rep. Schmidt** if she has requested a fiscal note for this bill. **Rep. Schmidt** said yes.

**Closing by Sponsor:**

**Rep. Schmidt** said these people are not Montana residents, and they are forming LLC's to avoid paying taxes in their own states, and Montana should not give them a tax break.

*{Tape : 2; Side : A; Approx. Time Counter : 0.3}*

**Hearing on HB 375**

**Sponsor:** Rep. Eileen Carney, HD 82.

**Proponents:** Brenda Nordlund, Department of Justice; John Flink, MHA;

**Opponents:** none.

**Informational Witnesses:** none.

**Opening Statement by Sponsor:**

**Rep. Carney** said this bill was originally passed as Senate Bill 71 in the last session. It will help hospitals and clinics to recruit medical personnel and recruit from across the border, for example Canada and North Dakota. She said if medical personnel come here to work, they would not have to register their vehicles in Montana, because they already have registered them in Canada and North Dakota or where ever they are from. This bill is to clarify, add new language and make it easier to administer the law.

**Proponents' Testimony:**

*{Tape : 2; Side : A; Approx. Time Counter : 1.6}*

**Brenda Nordlund** said they support HB 375.

**EXHIBIT**(trh23a07), **EXHIBIT**(trh23a08),  
**EXHIBIT**(trh23a09), **EXHIBIT**(trh23a10), **EXHIBIT**(trh23a11).

**John Flink** said they support HB 375.

**Opponents' Testimony:** none.

**Questions from Committee Members and Responses:**

**Rep. Hedges** asked **Ms. Nordlund** why this bill does not expand to cover speech pathologists, nurses, physical therapists, etc. **Ms. Nordlund** said she will find out exactly which professionals are included in the exemption.

**Rep. Smith** asked **Ms. Nordlund** if Hospital Administrators are included in this bill. **Ms. Nordlund** said no, they are not included in this bill, it states in the bill specifically a non-resident person.

**Closing by Sponsor:**

*{Tape : 2; Side : A; Approx. Time Counter : 13.7}*

**Rep. Carney** said this is a simple bill and she urges a do pass.

**Hearing on HB 33**

**Sponsor:** Rep. Cindy Younkin, HD 28, Bozeman.

**Proponents:** Jack Stults, Division Administrator of the Water Resources Division at DNRC; Patrick Heffernan, Montana Logging Association; Gary Felstad, Montana Association of Counties; Ellen Engstedt, Montana Wood Products Association; Lee Provance, Gallatin County Road Superintendent; Jane Jelinski, Montana Association of Counties; Gary Gilmore, Montana Department of Transportation; Mike Kakuk, Attorney in Helena; Mike Murphy, Montana Water Resource Association; Al Kington, Montana Forest County Coalition.

**Opponents:** John Bloomquist, Montana Stockgrowers Association.

**Informational Witnesses:** none.

**Opening Statement by Sponsor:**

**Rep. Younkin** said this bill involves a short term sale or lease of an appropriation right. If a construction company or a county wants to utilize water for short term purposes for dust abatement on county roads or for construction projects a lot of water is utilized for compaction of the road surface while in the construction process. She said there is no simple way for a construction company or for the county to be able to utilize that water without going through a long process before going to the Montana Department of Natural Resources. She said currently there are laws that would enable an appropriator of a water right to sell his portion of a water right or to lease it to someone

else for other types of uses. This bill provides an easier process for use of small amounts of water for use by construction companies or counties the road construction processes or county road dust abatement processes. Right now, the bill contemplates a short term sale of at least 40,000 gallons of water per day. An Amendment, would allow up to 60,000 gallons per day.

**EXHIBIT(trh23a12).**

***{Tape : 2; Side : A; Approx. Time Counter : 18.9}***

**Proponents' Testimony:**

**Jack Stults** said this bill provides an opportunity for contractors or counties to file a short term lease notification 10 days prior to putting their project into operation and to provide notice to existing water users in the area that this is going to happen. The amendment limits those leases to 90 days at a time in any one season and also limits them to 60,000 gallons per day.

***{Tape : 2; Side : A; Approx. Time Counter : 26.9}***

**Patrick Heffernan** said they support HB 33. He handed out some written suggestions for improvement on the bill.

**EXHIBIT(trh23a13).**

**Gary Felstad** said they support on HB 33.

**Ellen Engstedt** said they support HB 33 with amendments proposed.

**EXHIBIT(trh23a14).**

**Lee Provance** said he supports HB 33.

***{Tape : 2; Side : B; Approx. Time Counter : 2.5}***

**Jane Jelinski** said they and Yellowstone County support HB 33.

**Gary Gilmore** said they support HB 33.

**Mike Kakuk** said he is representing the Montana Contractors Association. He said they support HB 33 with amendments proposed.

**Mike Murphy** said they support HB 33 with amendments proposed and suggested an amendment that a lessor may have only one lease under this section. **EXHIBIT(trh23a15).**

**Al Kington** said they support HB 33 with amendments proposed.

**{Tape : 2; Side : B; Approx. Time Counter : 9.6}**

**Opponents' Testimony:**

**John Bloomquist** said if the amendments limit the time period that this would occur, and limit it to 60,000 gallons per day, that is a huge amount of water unless you are able to stack a variety of water rights. He said it could affect someone else's water right. He said, if there were changes on the notice provision which include publication notice, that would be a positive change.

**Questions from Committee Members and Responses:**

**{Tape : 2; Side : B; Approx. Time Counter : 13.4}**

**Rep. Smith** asked **Mr. Heffernan** what would happen if some people did not get the notification, as he had suggested notifying people by talking to them. **Mr. Heffernan** said they are trying to get in place a way to notify people by newspaper and direct mailings. He said this might be an alternative form of notification that could be used to more directly notify adjacent land owners and the water right holders.

**Rep. Smith** asked **Mr. Heffernan** if he would be willing to accept both types, direct mailings and notification by newspaper. **Mr. Heffernan** said the direct mailings would be a better way for notification.

**Rep. Keane** asked **Rep. Younkin** if a 120 day term would be more appropriate to sell or lease an appropriation right, rather than a 90 day term. **Rep. Younkin** said she would not be opposed to 120 days.

**Rep. Gallik** asked **Rep. Younkin** under this 90 day time frame, if that is one lease per year, or could you stack them for more than 90 days in one calendar year. **Rep. Younkin** said it is not intended for the contractor and the county to use that water right together, but they could use them consecutively.

**{Tape : 3; Side : A; Approx. Time Counter : 0.3}**

**Rep. Juneau** said to **Mr. Stults** if the water is in any area that has tribal rights on it, would they be notified because there is no mention of tribal notification in this bill. **Mr. Stults** said the notification of a tribe would be the same as anyone else who has a water right.

**Chairman Somerville** asked **Mr. Stults** how often this issue comes up per year. **Mr. Stults** said they get an increasing number of complaints a year about this activity from contractors, and from people who say there are contractors just taking the water.

*{Tape : 3; Side : A; Approx. Time Counter : 3.8}*

**Chairman Somerville** asked **Mr. Stults** if a contractor could get 60,000 gallons of water per day in a 90 day period in one location, could he get multiple water rights to get the job done. **Mr. Stults** said yes, with the amendments, a contractor could go to one landowner who has multiple rights and place a lease on those rights and the contractor could go to multiple people in the area and get multiple rights.

*{Tape : 3; Side : A; Approx. Time Counter : 8.7}*

**Closing by Sponsor:**

**Rep. Younkin** said the legislature needs to provide a better process for short term lease of water for road construction.



**ADJOURNMENT**

Adjournment: 5:20 P.M.

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REP. ROGER SOMERVILLE, Chairman

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DONNA HUFFMAN, Secretary

RS/DH

**EXHIBIT** (trh23aad)